

I certify that the attached is a true and  
correct copy of HB1963, which  
was filed of record on MAR 7 1989  
and referred to the committee on:

State Affairs

*Boyd Murray*  
Chief Clerk of the House

1989 MAR 22 PM 1:34

HOUSE OF REPRESENTATIVES

FILED MAR 7 1989

By Jami

H.B. No. 1963

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, and duties of the  
Texas Hazardous Materials Safety Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. BOARD; MEMBERS. (a) The Texas Hazardous  
Materials Safety Board is an agency of the state.

(b) The board is composed of the following 11 members:

(1) a representative from the governor's office  
appointed by the governor;

(2) one member from each house of the legislature,  
appointed by the presiding officer of the applicable house;

(3) a representative of the general public appointed  
by the Railroad Commission of Texas;

(4) a representative of the motor carrier industry  
appointed by the Railroad Commission of Texas;

(5) a representative of the railroad industry  
appointed by the Railroad Commission of Texas; and

(6) one representative from each of the following  
state agencies, appointed by the executive director or commissioner  
of each respective agency:

(A) the Railroad Commission of Texas;

(B) the Department of Public Safety;

(C) the Texas Water Commission;

(D) the Texas Department of Health; and

1 (E) the Texas Air Control Board.

2 SECTION 2. TERMS; VACANCY. (a) Members of the board are  
3 appointed for terms of two years expiring on February 1 of each  
4 odd-numbered year.

5 (b) If a vacancy occurs on the board, the appropriate  
6 appointing authority shall appoint a replacement who meets the  
7 qualifications prescribed for the office.

8 SECTION 3. PRESIDING OFFICER; COMPENSATION. (a) The  
9 Railroad Commission of Texas shall designate a presiding officer  
10 from the membership of the board. The presiding officer serves in  
11 that capacity for a period of two years. The presiding officer is  
12 entitled to vote on any matter before the board.

13 (b) A member of the board may not receive compensation for  
14 serving on the board. A member is entitled to reimbursement for  
15 actual and necessary expenses incurred in performing functions as a  
16 member of the board. Each agency shall reimburse its  
17 representative, and the Railroad Commission of Texas shall  
18 reimburse the representative of the general public.

19 SECTION 4. MEETINGS; ADMINISTRATIVE PROCEDURE. (a) The  
20 board shall meet at the call of the presiding officer or as  
21 provided by the rules of the board.

22 (b) The board is a governmental body for purposes of the  
23 open meetings law, Chapter 271, Acts of the 60th Legislature,  
24 Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil  
25 Statutes), and the Administrative Procedure and Texas Register Act  
26 (Article 6252-13a, Vernon's Texas Civil Statutes).

27 SECTION 5. CIVIL LIABILITY; LOBBYIST RESTRICTION. (a) A

1 member of the board is not subject to civil liability for any act  
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5 Chapter 305, Government Code, may not serve as a member of the  
6 board or act as general counsel to the board.

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10 qualifications required for appointment to the board;

11 (2) does not maintain during service on the board the  
12 qualifications required for appointment to the board; or

13 (3) violates a prohibition established by this Act.

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15 by the fact that it was taken while a ground for removal of a  
16 member of the board existed.

17 SECTION 7. POWERS AND DUTIES OF BOARD. The board shall:

18 (1) coordinate the collection of data concerning  
19 hazardous materials;

20 (2) coordinate accident response to and investigation  
21 of accidents involving hazardous materials that do not come under  
22 the jurisdiction of the Texas Water Commission, as provided by the  
23 Texas Hazardous Substances Spill Prevention and Control Act  
24 (Section 26.261 et seq., Water Code);

25 (3) recommend legislation on hazardous materials; and

26 (4) ensure a unified response to federal hazardous  
27 material regulations.

1           SECTION 8. MEMORANDUM OF UNDERSTANDING. The board by rule  
2 shall adopt a memorandum of understanding relating to the board's  
3 jurisdiction over spills of hazardous materials on land. The  
4 memorandum shall be adopted by the board and any other state agency  
5 concerned with spills or disposal of hazardous materials. A  
6 revision of any memorandum must be adopted by rule.

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8 with this Act for the general administration of this Act.

9           SECTION 10. RELATIONSHIP TO OTHER LAWS. Except as  
10 specifically provided by this Act, this Act does not diminish or  
11 limit the authority of the Texas Department of Health, the Texas  
12 Water Commission, or any other state agency in performing the  
13 functions relating to spills of hazardous materials vested in those  
14 agencies by other law.

15           SECTION 11. APPLICATION OF SUNSET ACT. The board is subject  
16 to the Texas Sunset Act (Chapter 325, Government Code). Unless  
17 continued in existence as provided by that Act, the board is  
18 abolished and this Act expires September 1, 2001.

19           SECTION 12. EFFECTIVE DATE. This Act takes effect September  
20 1, 1989.

21           SECTION 13. EMERGENCY. The importance of this legislation  
22 and the crowded condition of the calendars in both houses create an  
23 emergency and an imperative public necessity that the  
24 constitutional rule requiring bills to be read on three several  
25 days in each house be suspended, and this rule is hereby suspended.

# HOUSE COMMITTEE REPORT

80 APR 26 PM 10:30

1st Printing

By Garcia

H.B. No. 1963

Substitute the following for H.B. No. 1963:

By Guerrero

C.S.H.B. No. 1963

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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(5) a representative of the railroad industry appointed by the governor;

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(A) the Railroad Commission of Texas;

(B) the Department of Public Safety;

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- (D) the Texas Department of Health; and
- (E) the Texas Air Control Board.

SECTION 2. TERMS; VACANCY. (a) Members of the board are appointed for terms of two years expiring on February 1 of each odd-numbered year.

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SECTION 3. PRESIDING OFFICER; COMPENSATION. (a) The Railroad Commission of Texas shall designate a presiding officer from the membership of the board. The presiding officer serves in that capacity for a period of two years. The presiding officer is entitled to vote on any matter before the board.

(b) A member of the board may not receive compensation for serving on the board. A member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board. Each appointing authority shall reimburse the authority's appointees from funds available for that purpose.

SECTION 4. MEETINGS; ADMINISTRATIVE PROCEDURE. (a) The board shall meet at the call of the presiding officer or as provided by the rules of the board.

(b) The board is a governmental body for purposes of the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

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24 days in each house be suspended, and this rule is hereby suspended.



# COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

4-17-89

(date)

Sir:

We, your COMMITTEE ON STATE AFFAIRS,

to whom was referred HB 1963 have had the same under consideration and beg to report  
(measure)  
back with the recommendation that it

( ) do pass, without amendment.

( ) do pass, with amendment(s).

☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ☒ yes ( ) no

An actuarial analysis was requested. ( ) yes ☒ no

An author's fiscal statement was requested. ( ) yes ☒ no

A criminal justice policy impact statement was prepared. ( ) yes ☒ no

A water development policy impact statement was requested. ( ) yes ☒ no

☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the ( ) Local, ☒ Consent, or ( ) Resolutions Calendar.

This measure ☒ proposes new law. ( ) amends existing law.

House Sponsor of Senate Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

|                | AYE                                 | NAY | PNV                                 | ABSENT                              |
|----------------|-------------------------------------|-----|-------------------------------------|-------------------------------------|
| Laney, Ch.     |                                     |     | <input checked="" type="checkbox"/> |                                     |
| Guerrero, V.C. | <input checked="" type="checkbox"/> |     |                                     |                                     |
| Tallas, C.B.O. | <input checked="" type="checkbox"/> |     |                                     |                                     |
| Cain           | <input checked="" type="checkbox"/> |     |                                     |                                     |
| Gibson         | <input checked="" type="checkbox"/> |     |                                     |                                     |
| Harrison       | <input checked="" type="checkbox"/> |     |                                     |                                     |
| Hilbert        | <input checked="" type="checkbox"/> |     |                                     |                                     |
| Hury           |                                     |     |                                     | <input checked="" type="checkbox"/> |
| Jones          | <input checked="" type="checkbox"/> |     |                                     |                                     |
| Oakley         |                                     |     |                                     | <input checked="" type="checkbox"/> |
| Perez          |                                     |     |                                     | <input checked="" type="checkbox"/> |
| Saunders       |                                     |     |                                     | <input checked="" type="checkbox"/> |
| Smith, T.      | <input checked="" type="checkbox"/> |     |                                     |                                     |
|                |                                     |     |                                     |                                     |
|                |                                     |     |                                     |                                     |

Total

8 aye

0 nay

1 present, not voting

4 absent

CHAIRMAN

Deborah K. Wall  
COMMITTEE COORDINATOR

BILL ANALYSIS

Background

Due to the large concentration of industrial manufacturers and supplies in Texas, there is considerable transportation of hazardous material within the state. Both the regulation and clean-up responsibilities for hazardous materials are divided among several state agencies, and there is often little co-ordination between these agencies.

Purpose

To establish and define the Texas Hazardous Materials Safety Board.

Section by Section Analysis

- SECTION 1. Creates the Texas Hazardous Materials Safety Board and provides for its composition.
- SECTION 2. Provides terms of office for members of the Board.
- SECTION 3. Provides that the Railroad Commission shall select a presiding officer for the Board. Prohibits a Board member from accepting compensation for service, but allows them to recover expenses.
- SECTION 4. Provides for meetings of the Board in accordance with the Administrative Procedures Act, and subject to open meetings requirements.
- SECTION 5. Provides that a Board member is not civilly liable for any act performed in good faith execution of duties. Prohibits a person required to register as a lobbyist from serving as a Board member or General Counsel.
- SECTION 6. Provides grounds for removal of a Board member.
- SECTION 7. Provides for the powers and duties of the Board.
- SECTION 8. Requires the Board to adopt a memorandum of understanding relating to the board's jurisdiction over land spills with any other state agency concerned therewith.
- SECTION 9. Grants the Board the authority to adopt rules as necessary to administer the act.
- SECTION 10. This act does not diminish the authority of the Health Department or the Water Commission except as specifically provided.

SECTION 11. The sunset act applies to this agency.

SECTION 12. Effective Date: September 1, 1989

SECTION 13. Emergency Clause.

#### Rulemaking Authority

It is the opinion of the committee that this bill delegates the following rulemaking authority:

- 1) The authority to adopt by rule a memorandum of understanding relating to the jurisdiction of the Board with any other agency concerned with hazardous land spills; (SECTION 8);
- 2) The authority to adopt rules as necessary to implement the provisions of this act (SECTION 9).

#### Summary of Committee Action

On April 17, 1989, in a public hearing called pursuant to the Rules of the House, the committee took up and considered HB1963. At that time the committee voted to report the measure to the full House, with a complete substitute and with the recommendation it do pass and that it be placed on the Consent Calender by a record vote of 8 ayes, no nays, 1 PNV and 4 members absent.

#### Comparison of Original to Substitute

The original bill provided for an 11 member board with 3 of those members appointed by the Railroad Commission. The substitute provides for a 12 member board. The authority of the Railroad Commission to appoint members is deleted and that authority is granted to the Governor. Further, the Governor is allowed to appoint a fourth member from the hazardous material transport industry. The original bill provided that the Board would coordinate the response to harardous material accidents. The substitute replaces that section with a provision that limits the board's authority to one of review of the planning and coordination response and investigation of accidents.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 14, 1989

TO: Honorable James E. "Pete" Laney, Chair  
Committee on State Affairs  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1963  
By: Garcia

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1963 (relating to the creation, administration, powers, and duties of the Texas Hazardous Materials Safety Board) this office has determined the following:

The bill would create the Texas Hazardous Materials Safety Board as an agency of the state. The Board would be responsible for the coordination and collection of data concerning hazardous materials, the coordination of response to and investigation of accidents involving hazardous materials not under the jurisdiction of the Texas Water Commission, the recommendation of legislation regarding hazardous materials and the coordination of a unified response to federal hazardous material regulations.

No significant fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Department of Public Safety; Air Control Board; Department of Health; Railroad Commission;  
LBB Staff: JO, JWH, AL, CKM

**ADOPTED**

MAY 5 1989

*Betty Murray*  
Chief Clerk  
House of Representatives

By Garcia

H.B. 1963

Substitute the following for H.B. 1963:

By *Garcia*

H.C.S.B. 1963

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# HOUSE ENGROSSMENT

COMM-3 7/13/63

By Garcia

H.B. No. 1963

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# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

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TO: Honorable James E. "Pete" Laney, Chair  
Committee on State Affairs  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1963  
By: Garcia

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1963 (relating to the creation, administration, powers, and duties of the Texas Hazardous Materials Safety Board) this office has determined the following:

The bill would create the Texas Hazardous Materials Safety Board as an agency of the state. The Board would be responsible for the coordination and collection of data concerning hazardous materials, the coordination of response to and investigation of accidents involving hazardous materials not under the jurisdiction of the Texas Water Commission, the recommendation of legislation regarding hazardous materials and the coordination of a unified response to federal hazardous material regulations.

No significant fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Department of Public Safety; Air Control Board; Department of Health; Railroad Commission;  
LBB Staff: JO, JWH, AL, CKM

REQUEST FOR LOCAL & UNCONTESTED CALENDAR  
PLACEMENT

Hon. Bill Sims, Chairman  
Administration Committee

Sir:

Notice is hereby given that CS HB 1963, by: Larcia (Gruan)  
was heard by the Committee on Health & Human Services on 5-7-89, 1989  
and reported out with the recommendation that it be placed on the Local and Uncontested  
Calendar.

Linda M. Kristofelis  
Clerk of the reporting committee

**IMPORTANT:** A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF  
THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE  
BILL OR RESOLUTION SHOULD BE DELIVERED TO THE OFFICE OF THE  
COMMITTEE ON ADMINISTRATION, ROOM 419. PLEASE CALL 3-0350 IF YOU HAVE  
ANY QUESTIONS. **DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR**  
**IS 5:00 P.M. FRIDAY.**

Paper clip the original to the bill; retain one copy for reporting committee files; deliver one copy to the bill sponsor.

# SENATE FAVORABLY AS SUBSTITUTED COMMITTEE REPORT

Lt. Governor William P. Hobby  
President of the Senate

20  
5-18-89  
(date)/(time)

Sir:

We, your Committee on HEALTH AND HUMAN SERVICES to which was referred  
HB 1963 by Garcia have on 5-18, 1989 had the same  
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

- ☒ do pass as substituted, and be printed  
☒ the caption remained the same as original measure  
( ) the caption changed with adoption of the substitute

( ) do pass as substituted, and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ( ) no

A revised fiscal note was requested. ( ) yes ( ) no

An actuarial analysis was requested. ( ) yes ( ) no

Considered by subcommittee. ( ) yes ( ) no

Senate Sponsor of House Measure

Truan

The measure was reported from Committee by the following vote:

|                      | YEA                                 | NAY | PNV | ABSENT |
|----------------------|-------------------------------------|-----|-----|--------|
| Brooks, Chairman     | <input checked="" type="checkbox"/> |     |     |        |
| Uribe, Vice Chairman |                                     |     |     |        |
| Edwards              | <input checked="" type="checkbox"/> |     |     |        |
| Johnson              | <input checked="" type="checkbox"/> |     |     |        |
| Parmer               |                                     |     |     |        |
| Tejeda               | <input checked="" type="checkbox"/> |     |     |        |
| Truan                | <input checked="" type="checkbox"/> |     |     |        |
| Whitmire             |                                     |     |     |        |
| Zaffirini            | <input checked="" type="checkbox"/> |     |     |        |
| TOTAL VOTES          | <u>6</u>                            |     |     |        |

Linda M. Cristofolini  
COMMITTEE CLERK

Brooks  
CHAIRMAN

1 By: Garcia (Senate Sponsor - Truan) H.B. No. 1963  
2 (In the Senate - Received from the House May 8, 1989;  
3 May 9, 1989, read first time and referred to Committee on Health  
4 and Human Services; May 20, 1989, reported adversely, with  
5 favorable Committee Substitute by the following vote: Yeas 6, Nays  
6 0; May 20, 1989, sent to printer.)

7 COMMITTEE VOTE

|              | Yea | Nay | PNV | Absent |
|--------------|-----|-----|-----|--------|
| 8 Brooks     | x   |     |     |        |
| 9 Uribe      |     |     |     | x      |
| 10 Edwards   | x   |     |     |        |
| 11 Johnson   | x   |     |     |        |
| 12 Parmer    |     |     |     | x      |
| 13 Tejada    | x   |     |     |        |
| 14 Truan     | x   |     |     |        |
| 15 Whitmire  |     |     |     | x      |
| 16 Zaffirini | x   |     |     |        |

18 COMMITTEE SUBSTITUTE FOR H.B. No. 1963

By: Truan

19 A BILL TO BE ENTITLED  
20 AN ACT

21 relating to the creation, administration, powers, and duties of the  
22 Texas Hazardous Materials Safety Board.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

24 SECTION 1. BOARD; MEMBERS. (a) The Texas Hazardous  
25 Materials Safety Board is an agency of the state.

26 (b) The board is composed of the following 12 members:

27 (1) a representative from the governor's office  
28 appointed by the governor;

29 (2) one member from each house of the legislature,  
30 appointed by the presiding officer of the applicable house;

31 (3) a representative of the general public appointed  
32 by the governor;

33 (4) a management representative of the motor carrier  
34 industry who is involved with the transportation of hazardous  
35 materials appointed by the Governor;

36 (5) a representative of the railroad industry  
37 appointed by the governor;

38 (6) a management representative of a company that  
39 manufactures or receives hazardous materials appointed by the  
40 governor; and

41 (7) one representative from each of the following  
42 state agencies, appointed the executive director or commissioner of  
43 each respective agency:

44 (A) the Railroad Commission of Texas;

45 (B) the Department of Public Safety;

46 (C) the Texas Water Commission;

47 (D) the Texas Department of Health; and

48 (E) the Texas Air Control Board.

49 SECTION 2. TERMS; VACANCY. (a) Members of the board are  
50 appointed for terms of two years expiring on February 1 of each  
51 odd-numbered year.

52 (b) If a vacancy occurs on the board, the appropriate  
53 appointing authority shall appoint a replacement who meets the  
54 qualifications prescribed for the office.

55 SECTION 3. PRESIDING OFFICER; COMPENSATION. (a) The  
56 Railroad Commission of Texas shall designate a presiding officer  
57 from the membership of the board. The presiding officer serves in  
58 that capacity for a period of two years. The presiding officer is  
59 entitled to vote on any matter before the board.

60 (b) A member of the board may not receive compensation for  
61 serving on the board. A member is entitled to reimbursement for  
62 actual and necessary expenses incurred in performing functions as a  
63 member of the board. Each appointing authority shall reimburse the  
64 authority's appointees from funds available for that purpose.

65 SECTION 4. MEETINGS; ADMINISTRATIVE PROCEDURE. (a) The  
66 board shall meet at the call of the presiding officer or as  
67 provided by the rules of the board.

68 (b) The board is a governmental body for purposes of the



open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 5. CIVIL LIABILITY; LOBBYIST RESTRICTION. (a) A member of the board is not subject to civil liability for any act performed in good faith in the execution of duties as a board member.

(b) A person who is required to register as a lobbyist under Chapter 305, Government Code, may not serve as a member of the board or act as general counsel to the board.

SECTION 6. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required for appointment to the board;

(2) does not maintain during service on the board the qualifications required for appointment to the board; or

(3) violates a prohibition established by this Act.

(b) The validity of an action of the board is not affected by the fact that it was taken while a ground for removal of a member of the board existed.

SECTION 7. POWERS AND DUTIES OF BOARD. The board shall:

(1) coordinate the collection of data concerning hazardous materials;

(2) review the planning and coordination of accident response to and investigation of accidents involving hazardous materials;

(3) recommend legislation on hazardous materials; and

(4) ensure a unified response to federal hazardous material regulations.

SECTION 8. MEMORANDUM OF UNDERSTANDING. The board by rule shall adopt a memorandum of understanding relating to the board's jurisdiction over spills of hazardous materials on land. The memorandum shall be adopted by the board and any other state agency concerned with spills or disposal of hazardous materials. A revision of any memorandum must be adopted by rule.

SECTION 9. RULEMAKING. The board may adopt rules consistent with this Act for the general administration of this Act.

SECTION 10. RELATIONSHIP TO OTHER LAWS. Except as specifically provided by this Act, this Act does not diminish or limit the authority of the Texas Department of Health, the Texas Water Commission, or any other state agency in performing the functions relating to spills of hazardous materials vested in those agencies by other law.

SECTION 11. APPLICATION OF SUNSET ACT. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this Act expires September 1, 2001.

SECTION 12. EFFECTIVE DATE. This Act takes effect September 1, 1989.

SECTION 13. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

\* \* \* \* \*

Austin, Texas  
May 20, 1989

Hon. William P. Hobby  
President of the Senate

Sir:

We, your Committee on Health and Human Services to which was referred H.B. No. 1963, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Brooks, Chairman

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

May 10, 1989

TO: Honorable Chet Brooks, Chairman  
Committee on Health and Human Services  
Senate Chamber  
Austin, Texas

In Re: House Bill No. 1963,  
as engrossed  
By: Garcia

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1963, as engrossed (relating to the creation, administration, powers, and duties of the Texas Hazardous Materials Safety Board) this office has determined the following:

The bill would create the Texas Hazardous Materials Safety Board as an agency of the state. The Board would be responsible for the coordination and collection of data concerning hazardous materials, the coordination of response to and investigation of accidents involving hazardous materials not under the jurisdiction of the Texas Water Commission, the recommendation of legislation regarding hazardous materials and the coordination of a unified response to federal hazardous material regulations.

No significant fiscal implication to the State or units of local government is anticipated.

Source: Department of Public Safety; Air Control Board; Department of Health;  
Railroad Commission;  
LBB Staff: JO, JWH, AL, PA

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 14, 1989

TO: Honorable James E. "Pete" Laney, Chair  
Committee on State Affairs  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1963  
By: Garcia

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1963 (relating to the creation, administration, powers, and duties of the Texas Hazardous Materials Safety Board) this office has determined the following:

The bill would create the Texas Hazardous Materials Safety Board as an agency of the state. The Board would be responsible for the coordination and collection of data concerning hazardous materials, the coordination of response to and investigation of accidents involving hazardous materials not under the jurisdiction of the Texas Water Commission, the recommendation of legislation regarding hazardous materials and the coordination of a unified response to federal hazardous material regulations.

No significant fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Department of Public Safety; Air Control Board; Department of Health; Railroad Commission;  
LBB Staff: JO, JWH, AL, CKM

AMEND THE CAPTION TO CONFORM  
TO THE BODY OF THE BILL

**ADOPTED**

MAY 24 1989

*L. L. King*  
Secretary of the Senate

ADOPTED

MAY 24 1989

*Latoya King*  
Secretary of the Senate

By Garcia

H.B. No. 1963

Substitute the following for H.B. No. 1963

By

*Truman*

C.S.H.B. No. 1963

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the creation, administration, powers, and duties of the  
3 Texas Hazardous Materials Safety Board.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. BOARD; MEMBERS. (a) The Texas Hazardous  
6 Materials Safety Board is an agency of the state.

7 (b) The board is composed of the following 12 members:

8 (1) a representative from the governor's office  
9 appointed by the governor;

10 (2) one member from each house of the legislature,  
11 appointed by the presiding officer of the applicable house;

12 (3) a representative of the general public appointed  
13 by the governor;

14 (4) a management representative of the motor carrier  
15 industry who is involved with the transportation of hazardous  
16 materials appointed by the Governor;

17 (5) a representative of the railroad industry appointed  
18 by the governor;

19 (6) a management representative of a company that  
20 manufactures or receives hazardous materials appointed by the  
21 Governor.

22 (7) one representative from each of the following state  
23 agencies, appointed the executive director or commissioner of  
24 each respective agency:

25 (A) the Railroad Commission of Texas;

26 (B) the Department of Public Safety;

- (C) the Texas Water Commission;
- (D) the Texas Department of Health; and
- (E) the Texas Air Control Board.

SECTION 2. TERMS; VACANCY. (a) Members of the board are appointed for terms of two years expiring on February 1 of each odd-numbered year.

(b) If a vacancy occurs on the board, the appropriate appointing authority shall appoint a replacement who meets the qualifications prescribed for the office.

SECTION 3. PRESIDING OFFICER; COMPENSATION. (a) The Railroad Commission of Texas shall designate a presiding officer from the membership of the board. The presiding officer serves in that capacity for a period of two years. The presiding officer is entitled to vote on any matter before the board.

(b) A member of the board may not receive compensation for serving on the board. A member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board. Each appointing authority shall reimburse the authority's appointees from funds available for that purpose.

SECTION 4. MEETINGS; ADMINISTRATIVE PROCEDURE. (a) The board shall meet at the call of the presiding officer or as provided by the rules of the board.

(b) The board is a governmental body for purposes of the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

1       SECTION 5. CIVIL LIABILITY; LOBBYIST RESTRICTION. (a) A  
2 member of the board is not subject to civil liability for any act  
3 performed in good faith in the execution of duties as a board  
4 member.

5       (b) A person who is required to register as a lobbyist under  
6 Chapter 305, Government Code, may not serve as a member of the  
7 board or act as general counsel to the board.

8       SECTION 6. GROUNDS FOR REMOVAL. (a) It is a ground for  
9 removal from the board if a member:

10           (1) does not have at the time of appointment the  
11 qualifications required for appointment to the board;

12           (2) does not maintain during service on the board the  
13 qualifications required for appointment to the board; or

14           (3) violates a prohibition established by this Act.

15       (b) The validity of an action of the board is not affected  
16 by the fact that it was taken while a ground for removal of a  
17 member of the board existed.

18       SECTION 7. POWERS AND DUTIES OF BOARD. The board shall:

19           (1) coordinate the collection of data concerning  
20 hazardous materials;

21           (2) review the planning and coordination of accident  
22 response to and investigation of accidents involving hazardous  
23 materials;

24           (3) recommend legislation on hazardous materials; and

25           (4) ensure a unified response to federal hazardous  
26 material regulations.

27       SECTION 8. MEMORANDUM OF UNDERSTANDING. The board by rule

1 shall adopt a memorandum of understanding relating to the board's  
2 jurisdiction over spills of hazardous materials on land. The  
3 memorandum shall be adopted by the board and any other state agency  
4 concerned with spills or disposal of hazardous materials. A  
5 revision of any memorandum must be adopted by rule.

6 SECTION 9. RULEMAKING. The board may adopt rules consistent  
7 with this Act for the general administration of this Act.

8 SECTION 10. RELATIONSHIP TO OTHER LAWS. Except as  
9 specifically provided by this Act, this Act does not diminish or  
10 limit the authority of the Texas Department of Health, the Texas  
11 Water Commission, or any other state agency in performing the  
12 functions relating to spills of hazardous materials vested in those  
13 agencies by other law.

14 SECTION 11. APPLICATION OF SUNSET ACT. The board is subject  
15 to Chapter 325, Government Code (Texas Sunset Act). Unless  
16 continued in existence as provided by that chapter, the board is  
17 abolished and this Act expires September 1, 2001.

18 SECTION 12. EFFECTIVE DATE. This Act takes effect September  
19 1, 1989.

20 SECTION 13. EMERGENCY. The importance of this legislation  
21 and the crowded condition of the calendars in both houses create an  
22 emergency and an imperative public necessity that the  
23 constitutional rule requiring bills to be read on three several  
24 days in each house be suspended, and this rule is hereby suspended.



**ADOPTED**

MAY 24 1989

*Estelita King*  
Secretary of the Council

*How*

AMENDMENT NO. \_\_\_\_\_

BY

*Truman*

1 Amend H.B. 1963 by striking all below the enacting clause and  
2 substituting the following:

3 SECTION 1. COUNCIL. The Texas Hazardous Materials Safety  
4 Council is established as an advisory coordinating council  
5 concerning matters in this state relating to hazardous materials.

6 SECTION 2. GENERAL RESPONSIBILITIES. The council shall:

7 (1) coordinate the collection of data concerning  
8 hazardous materials;

9 (2) review the planning and coordination of accident  
10 response to and investigation of accidents involving hazardous  
11 materials;

12 (3) recommend legislation on hazardous materials; and

13 (4) ensure a unified response to federal hazardous  
14 material regulations.

15 SECTION 3. MEMBERSHIP. The council is composed of 12  
16 members as follows:

17 (1) a representative from the governor's office  
18 appointed by the governor;

19 (2) one member from each house of the legislature,  
20 appointed by the presiding officer of the applicable house;

21 (3) a representative of the general public appointed  
22 by the governor;

23 (4) a management representative of the motor carrier  
24 industry that is involved with the transportation of hazardous

1 materials appointed by the governor;

2 (5) a management representative of the railroad  
3 industry appointed by the governor;

4 (6) a management representative of a company that  
5 manufactures or receives hazardous materials appointed by the  
6 governor; and

7 (7) one representative from each of the following  
8 state agencies, appointed by the executive director or commissioner  
9 of each respective agency:

10 (A) the Railroad Commission of Texas;

11 (B) the Texas Department of Public Safety;

12 (C) the Texas Water Commission;

13 (D) the Texas Department of Health; and

14 (E) the Texas Air Control Board.

15 SECTION 4. TERMS; VACANCY. (a) A member of the council  
16 serves for a two-year term expiring February 1 of each odd-numbered  
17 year.

18 (b) If a vacancy occurs on the council, the appropriate  
19 appointing authority shall appoint a person to fill the vacancy who  
20 meets the qualifications prescribed for that position.

21 SECTION 5. PRESIDING OFFICER; COMPENSATION. (a) The  
22 governor shall designate a presiding officer from the council's  
23 membership. The presiding officer serves in that capacity for a  
24 period of two years. The presiding officer is entitled to vote on  
25 any matter before the council.

26 (b) A member of the council may not receive compensation for  
27 serving on the council. A member may receive reimbursement for

1 actual and necessary expenses incurred in performing functions as a  
2 council member. Each appointing authority may reimburse the  
3 authority's appointees from funds available for that purpose.

4 SECTION 6. MEETINGS. (a) The council shall meet at the  
5 call of the presiding officer or on the request of a majority of  
6 the council.

7 (b) The council is a governmental body for purposes of the  
8 open meetings law, Chapter 271, Acts of the 60th Legislature,  
9 Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil  
10 Statutes).

11 SECTION 7. CIVIL LIABILITY; LOBBYIST RESTRICTION. (a) A  
12 member of the council is not subject to civil liability for any act  
13 performed in good faith in the execution of duties as a council  
14 member.

15 (b) A person who is required to register as a lobbyist under  
16 Chapter 305, Government Code, may not serve as a council member.

17 SECTION 8. GROUNDS FOR REMOVAL. (a) It is a ground for  
18 removal from the council if a member:

19 (1) does not have at the time of appointment the  
20 qualifications required for appointment to the council;

21 (2) does not maintain during service on the council  
22 the qualifications required for appointment to the council; or

23 (3) violates a prohibition established by this Act.

24 (b) The validity of an action of the council is not affected  
25 by the fact that it was taken while a ground for removal of a  
26 member of the council existed.

27 SECTION 9. MEMORANDUM OF UNDERSTANDING. The council shall

1 secure the adoption of a memorandum of understanding relating to  
2 the council's responsibilities, or each of the agencies'  
3 jurisdiction, over spills of hazardous materials on land. The  
4 memorandum must be approved by the council and any other state  
5 agency concerned with spills or disposal of hazardous materials. A  
6 revision of any memorandum must be adopted by resolution of the  
7 council and by order of the state agency requesting the revision.

8 SECTION 10. RELATIONSHIP TO OTHER LAWS. Except as  
9 specifically provided by this Act, this Act does not diminish or  
10 limit the authority of the Texas Department of Health, the Texas  
11 Water Commission, or any other state agency in performing the  
12 functions relating to spills of hazardous materials vested in those  
13 agencies by law.

14 SECTION 11. EFFECTIVE DATE. (a) This Act takes effect  
15 September 1, 1989.

16 (b) The initial appointees to the Hazardous Materials Safety  
17 Council serve for terms expiring February 1, 1991.

18 SECTION 12. EMERGENCY. The importance of this legislation  
19 and the crowded condition of the calendars in both houses create an  
20 emergency and an imperative public necessity that the  
21 constitutional rule requiring bills to be read on three several  
22 days in each house be suspended, and this rule is hereby suspended.

69 MAY 24 PM 5:02  
SENATE REPRESENTATIVE

# SENATE AMENDMENTS

2nd Printing

By Garcia

H.B. No. 1963

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, and duties of the Texas Hazardous Materials Safety Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. BOARD; MEMBERS. (a) The Texas Hazardous Materials Safety Board is an agency of the state.

(b) The board is composed of the following 12 members:

(1) a representative from the governor's office appointed by the governor;

(2) one member from each house of the legislature, appointed by the presiding officer of the applicable house;

(3) a representative of the general public appointed by the governor;

(4) a representative of the motor carrier industry appointed by the governor;

(5) a representative of the railroad industry appointed by the governor;

(6) a representative of the hazardous materials transport industry appointed by the governor; and

(7) one representative from each of the following state agencies, appointed by the executive director or commissioner of each respective agency:

(A) the Railroad Commission of Texas;

(B) the Department of Public Safety;

- (C) the Texas Water Commission;
- (D) the Texas Department of Health; and
- (E) the Texas Air Control Board.

SECTION 2. TERMS; VACANCY. (a) Members of the board are appointed for terms of two years expiring on February 1 of each odd-numbered year.

(b) If a vacancy occurs on the board, the appropriate appointing authority shall appoint a replacement who meets the qualifications prescribed for the office.

SECTION 3. PRESIDING OFFICER; COMPENSATION. (a) The Railroad Commission of Texas shall designate a presiding officer from the membership of the board. The presiding officer serves in that capacity for a period of two years. The presiding officer is entitled to vote on any matter before the board.

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14 SECTION 11. APPLICATION OF SUNSET ACT. The board is subject  
15 to Chapter 325, Government Code (Texas Sunset Act). Unless  
16 continued in existence as provided by that chapter, the board is  
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19 1, 1989.

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21 and the crowded condition of the calendars in both houses create an  
22 emergency and an imperative public necessity that the  
23 constitutional rule requiring bills to be read on three several  
24 days in each house be suspended, and this rule is hereby suspended.



**ADOPTED**

MAY 24 1989

*Esther King*  
Secretary of the Senate

By Garcia

H.B. No. 1963

Substitute the following for H.B. No. 1963

By

*Truman*

C.S.H.B. No. 1963

A BILL TO BE ENTITLED

1

AN ACT

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4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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6 Materials Safety Board is an agency of the state.

7 (b) The board is composed of the following 12 members:

8 (1) a representative from the governor's office  
9 appointed by the governor;

10 (2) one member from each house of the legislature,  
11 appointed by the presiding officer of the applicable house;

12 (3) a representative of the general public appointed  
13 by the governor;

14 (4) a management representative of the motor carrier  
15 industry who is involved with the transportation of hazardous  
16 materials appointed by the Governor;

17 (5) a representative of the railroad industry appointed  
18 by the governor;

19 (6) a management representative of a company that  
20 manufactures or receives hazardous materials appointed by the  
21 Governor.

22 (7) one representative from each of the following state  
23 agencies, appointed the executive director or commissioner of  
24 each respective agency:

25 (A) the Railroad Commission of Texas;

26 (B) the Department of Public Safety;

- (C) the Texas Water Commission;
- (D) the Texas Department of Health; and
- (E) the Texas Air Control Board.

SECTION 2. TERMS; VACANCY. (a) Members of the board are appointed for terms of two years expiring on February 1 of each odd-numbered year.

(b) If a vacancy occurs on the board, the appropriate appointing authority shall appoint a replacement who meets the qualifications prescribed for the office.

SECTION 3. PRESIDING OFFICER; COMPENSATION. (a) The Railroad Commission of Texas shall designate a presiding officer from the membership of the board. The presiding officer serves in that capacity for a period of two years. The presiding officer is entitled to vote on any matter before the board.

(b) A member of the board may not receive compensation for serving on the board. A member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board. Each appointing authority shall reimburse the authority's appointees from funds available for that purpose.

SECTION 4. MEETINGS; ADMINISTRATIVE PROCEDURE. (a) The board shall meet at the call of the presiding officer or as provided by the rules of the board.

(b) The board is a governmental body for purposes of the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

1           SECTION 5. CIVIL LIABILITY; LOBBYIST RESTRICTION. (a) A  
2 member of the board is not subject to civil liability for any act  
3 performed in good faith in the execution of duties as a board  
4 member.

5           (b) A person who is required to register as a lobbyist under  
6 Chapter 305, Government Code, may not serve as a member of the  
7 board or act as general counsel to the board.

8           SECTION 6. GROUNDS FOR REMOVAL. (a) It is a ground for  
9 removal from the board if a member:

10           (1) does not have at the time of appointment the  
11 qualifications required for appointment to the board;

12           (2) does not maintain during service on the board the  
13 qualifications required for appointment to the board; or

14           (3) violates a prohibition established by this Act.

15           (b) The validity of an action of the board is not affected  
16 by the fact that it was taken while a ground for removal of a  
17 member of the board existed.

18           SECTION 7. POWERS AND DUTIES OF BOARD. The board shall:

19           (1) coordinate the collection of data concerning  
20 hazardous materials;

21           (2) review the planning and coordination of accident  
22 response to and investigation of accidents involving hazardous  
23 materials;

24           (3) recommend legislation on hazardous materials; and

25           (4) ensure a unified response to federal hazardous  
26 material regulations.

27           SECTION 8. MEMORANDUM OF UNDERSTANDING. The board by rule

1 shall adopt a memorandum of understanding relating to the board's  
2 jurisdiction over spills of hazardous materials on land. The  
3 memorandum shall be adopted by the board and any other state agency  
4 concerned with spills or disposal of hazardous materials. A  
5 revision of any memorandum must be adopted by rule.

6 SECTION 9. RULEMAKING. The board may adopt rules consistent  
7 with this Act for the general administration of this Act.

8 SECTION 10. RELATIONSHIP TO OTHER LAWS. Except as  
9 specifically provided by this Act, this Act does not diminish or  
10 limit the authority of the Texas Department of Health, the Texas  
11 Water Commission, or any other state agency in performing the  
12 functions relating to spills of hazardous materials vested in those  
13 agencies by other law.

14 SECTION 11. APPLICATION OF SUNSET ACT. The board is subject  
15 to Chapter 325, Government Code (Texas Sunset Act). Unless  
16 continued in existence as provided by that chapter, the board is  
17 abolished and this Act expires September 1, 2001.

18 SECTION 12. EFFECTIVE DATE. This Act takes effect September  
19 1, 1989.

20 SECTION 13. EMERGENCY. The importance of this legislation  
21 and the crowded condition of the calendars in both houses create an  
22 emergency and an imperative public necessity that the  
23 constitutional rule requiring bills to be read on three several  
24 days in each house be suspended, and this rule is hereby suspended.

8

ADOPTED

MAY 24 1989

*Adopted*  
*Committee on the Rules*

*How*  
AMENDMENT NO. \_\_\_\_\_

BY *Truman* \_\_\_\_\_

1 Amend H.B. 1963 by striking all below the enacting clause and  
2 substituting the following:

3 SECTION 1. COUNCIL. The Texas Hazardous Materials Safety  
4 Council is established as an advisory coordinating council  
5 concerning matters in this state relating to hazardous materials.

6 SECTION 2. GENERAL RESPONSIBILITIES. The council shall:

7 (1) coordinate the collection of data concerning  
8 hazardous materials;

9 (2) review the planning and coordination of accident  
10 response to and investigation of accidents involving hazardous  
11 materials;

12 (3) recommend legislation on hazardous materials; and

13 (4) ensure a unified response to federal hazardous  
14 material regulations.

15 SECTION 3. MEMBERSHIP. The council is composed of 12  
16 members as follows:

17 (1) a representative from the governor's office  
18 appointed by the governor;

19 (2) one member from each house of the legislature,  
20 appointed by the presiding officer of the applicable house;

21 (3) a representative of the general public appointed  
22 by the governor;

23 (4) a management representative of the motor carrier  
24 industry that is involved with the transportation of hazardous

1 materials appointed by the governor;

2 (5) a management representative of the railroad  
3 industry appointed by the governor;

4 (6) a management representative of a company that  
5 manufactures or receives hazardous materials appointed by the  
6 governor; and

7 (7) one representative from each of the following  
8 state agencies, appointed by the executive director or commissioner  
9 of each respective agency:

10 (A) the Railroad Commission of Texas;

11 (B) the Texas Department of Public Safety;

12 (C) the Texas Water Commission;

13 (D) the Texas Department of Health; and

14 (E) the Texas Air Control Board.

15 SECTION 4. TERMS; VACANCY. (a) A member of the council  
16 serves for a two-year term expiring February 1 of each odd-numbered  
17 year.

18 (b) If a vacancy occurs on the council, the appropriate  
19 appointing authority shall appoint a person to fill the vacancy who  
20 meets the qualifications prescribed for that position.

21 SECTION 5. PRESIDING OFFICER; COMPENSATION. (a) The  
22 governor shall designate a presiding officer from the council's  
23 membership. The presiding officer serves in that capacity for a  
24 period of two years. The presiding officer is entitled to vote on  
25 any matter before the council.

26 (b) A member of the council may not receive compensation for  
27 serving on the council. A member may receive reimbursement for

1 actual and necessary expenses incurred in performing functions as a  
2 council member. Each appointing authority may reimburse the  
3 authority's appointees from funds available for that purpose.

4 SECTION 6. MEETINGS. (a) The council shall meet at the  
5 call of the presiding officer or on the request of a majority of  
6 the council.

7 (b) The council is a governmental body for purposes of the  
8 open meetings law, Chapter 271, Acts of the 60th Legislature,  
9 Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil  
10 Statutes).

11 SECTION 7. CIVIL LIABILITY; LOBBYIST RESTRICTION. (a) A  
12 member of the council is not subject to civil liability for any act  
13 performed in good faith in the execution of duties as a council  
14 member.

15 (b) A person who is required to register as a lobbyist under  
16 Chapter 305, Government Code, may not serve as a council member.

17 SECTION 8. GROUNDS FOR REMOVAL. (a) It is a ground for  
18 removal from the council if a member:

19 (1) does not have at the time of appointment the  
20 qualifications required for appointment to the council;

21 (2) does not maintain during service on the council  
22 the qualifications required for appointment to the council; or

23 (3) violates a prohibition established by this Act.

24 (b) The validity of an action of the council is not affected  
25 by the fact that it was taken while a ground for removal of a  
26 member of the council existed.

27 SECTION 9. MEMORANDUM OF UNDERSTANDING. The council shall

1 secure the adoption of a memorandum of understanding relating to  
2 the council's responsibilities, or each of the agencies'  
3 jurisdiction, over spills of hazardous materials on land. The  
4 memorandum must be approved by the council and any other state  
5 agency concerned with spills or disposal of hazardous materials. A  
6 revision of any memorandum must be adopted by resolution of the  
7 council and by order of the state agency requesting the revision.

8 SECTION 10. RELATIONSHIP TO OTHER LAWS. Except as  
9 specifically provided by this Act, this Act does not diminish or  
10 limit the authority of the Texas Department of Health, the Texas  
11 Water Commission, or any other state agency in performing the  
12 functions relating to spills of hazardous materials vested in those  
13 agencies by law.

14 SECTION 11. EFFECTIVE DATE. (a) This Act takes effect  
15 September 1, 1989.

16 (b) The initial appointees to the Hazardous Materials Safety  
17 Council serve for terms expiring February 1, 1991.

18 SECTION 12. EMERGENCY. The importance of this legislation  
19 and the crowded condition of the calendars in both houses create an  
20 emergency and an imperative public necessity that the  
21 constitutional rule requiring bills to be read on three several  
22 days in each house be suspended, and this rule is hereby suspended.



AMEND THE CAPTION TO CONFORM  
TO THE BODY OF THE BILL

**ADOPTED**

MAY 24 1989

*Latasha*  
Secretary of the Police

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

May 10, 1989

TO: Honorable Chet Brooks, Chairman  
Committee on Health and Human Services  
Senate Chamber  
Austin, Texas

In Re: House Bill No. 1963,  
as engrossed  
By: Garcia

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1963, as engrossed (relating to the creation, administration, powers, and duties of the Texas Hazardous Materials Safety Board) this office has determined the following:

The bill would create the Texas Hazardous Materials Safety Board as an agency of the state. The Board would be responsible for the coordination and collection of data concerning hazardous materials, the coordination of response to and investigation of accidents involving hazardous materials not under the jurisdiction of the Texas Water Commission, the recommendation of legislation regarding hazardous materials and the coordination of a unified response to federal hazardous material regulations.

No significant fiscal implication to the State or units of local government is anticipated.

Source: Department of Public Safety; Air Control Board; Department of Health;  
Railroad Commission;  
LBB Staff: JO, JWH, AL, PA

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 14, 1989

TO: Honorable James E. "Pete" Laney, Chair  
Committee on State Affairs  
House of Representatives  
Austin, Texas

In Re: House Bill No. 1963  
By: Garcia

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1963 (relating to the creation, administration, powers, and duties of the Texas Hazardous Materials Safety Board) this office has determined the following:

The bill would create the Texas Hazardous Materials Safety Board as an agency of the state. The Board would be responsible for the coordination and collection of data concerning hazardous materials, the coordination of response to and investigation of accidents involving hazardous materials not under the jurisdiction of the Texas Water Commission, the recommendation of legislation regarding hazardous materials and the coordination of a unified response to federal hazardous material regulations.

No significant fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Department of Public Safety; Air Control Board; Department of Health; Railroad Commission;  
LBB Staff: JO, JWH, AL, CKM



1           (4) a management representative of the motor carrier  
2 industry that is involved with the transportation of hazardous  
3 materials appointed by the governor;

4           (5) a management representative of the railroad  
5 industry appointed by the governor;

6           (6) a management representative of a company that  
7 manufactures or receives hazardous materials appointed by the  
8 governor; and

9           (7) one representative from each of the following  
10 state agencies, appointed by the executive director or commissioner  
11 of each respective agency:

12                   (A) the Railroad Commission of Texas;

13                   (B) the Texas Department of Public Safety;

14                   (C) the Texas Water Commission;

15                   (D) the Texas Department of Health; and

16                   (E) the Texas Air Control Board.

17           SECTION 4. TERMS; VACANCY. (a) A member of the council  
18 serves for a two-year term expiring February 1 of each odd-numbered  
19 year.

20           (b) If a vacancy occurs on the council, the appropriate  
21 appointing authority shall appoint a person to fill the vacancy who  
22 meets the qualifications prescribed for that position.

23           SECTION 5. PRESIDING OFFICER; COMPENSATION. (a) The  
24 governor shall designate a presiding officer from the council's  
25 membership. The presiding officer serves in that capacity for a  
26 period of two years. The presiding officer is entitled to vote on  
27 any matter before the council.

1           (b) A member of the council may not receive compensation for  
2     serving on the council. A member may receive reimbursement for  
3     actual and necessary expenses incurred in performing functions as a  
4     council member. Each appointing authority may reimburse the  
5     authority's appointees from funds available for that purpose.

6           SECTION 6. MEETINGS. (a) The council shall meet at the  
7     call of the presiding officer or on the request of a majority of  
8     the council.

9           (b) The council is a governmental body for purposes of the  
10    open meetings law, Chapter 271, Acts of the 60th Legislature,  
11    Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil  
12    Statutes).

13          SECTION 7. CIVIL LIABILITY; LOBBYIST RESTRICTION. (a) A  
14    member of the council is not subject to civil liability for any act  
15    performed in good faith in the execution of duties as a council  
16    member.

17          (b) A person who is required to register as a lobbyist under  
18    Chapter 305, Government Code, may not serve as a council member.

19          SECTION 8. GROUNDS FOR REMOVAL. (a) It is a ground for  
20    removal from the council if a member:

21           (1) does not have at the time of appointment the  
22    qualifications required for appointment to the council;

23           (2) does not maintain during service on the council  
24    the qualifications required for appointment to the council; or

25           (3) violates a prohibition established by this Act.

26          (b) The validity of an action of the council is not affected  
27    by the fact that it was taken while a ground for removal of a

1 member of the council existed.

2 SECTION 9. MEMORANDUM OF UNDERSTANDING. The council shall  
3 secure the adoption of a memorandum of understanding relating to  
4 the council's responsibilities, or each of the agencies'  
5 jurisdiction, over spills of hazardous materials on land. The  
6 memorandum must be approved by the council and any other state  
7 agency concerned with spills or disposal of hazardous materials. A  
8 revision of any memorandum must be adopted by resolution of the  
9 council and by order of the state agency requesting the revision.

10 SECTION 10. RELATIONSHIP TO OTHER LAWS. Except as  
11 specifically provided by this Act, this Act does not diminish or  
12 limit the authority of the Texas Department of Health, the Texas  
13 Water Commission, or any other state agency in performing the  
14 functions relating to spills of hazardous materials vested in those  
15 agencies by law.

16 SECTION 11. EFFECTIVE DATE. (a) This Act takes effect  
17 September 1, 1989.

18 (b) The initial appointees to the Hazardous Materials Safety  
19 Council serve for terms expiring February 1, 1991.

20 SECTION 12. EMERGENCY. The importance of this legislation  
21 and the crowded condition of the calendars in both houses create an  
22 emergency and an imperative public necessity that the  
23 constitutional rule requiring bills to be read on three several  
24 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 1963

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President of the Senate

---

Speaker of the House

I certify that H.B. No. 1963 was passed by the House on May 5, 1989, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1963 on May 26, 1989, by a non-record vote.

---

Chief Clerk of the House

I certify that H.B. No. 1963 was passed by the Senate, with amendments, on May 24, 1989, by the following vote: Yeas 30, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor



\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 1963<sup>✓</sup> was passed by the House on  
(1)

(2) May 5<sup>✓</sup>, 1989, by a non-record vote;

and that the House concurred in Senate amendments to H.B. No. 1963<sup>✓</sup>

on May 26<sup>✓</sup>, 1989, by a non-record vote.  
(3)

\_\_\_\_\_  
Chief Clerk of the House

\*\*\*\* Preparation: 'A;CT64;

I certify that H.B. No. 1963<sup>✓</sup> was passed by the Senate, with  
(1)

amendments, on May 24<sup>✓</sup>, 1989, by the  
(2)

following vote: Yeas 30<sup>✓</sup>, Nays 0<sup>✓</sup>  
(3) (4)

\_\_\_\_\_  
Secretary of the Senate

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

\*\*\*\* Preparation: 'A;CT14;

H. B. No. 1963

By Larvin

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, and duties of the Texas Hazardous Materials Safety Board.

MAR 7 1989

1. Filed with the Chief Clerk.

MAR 20 1989

2. Read first time and Referred to Committee on

State Affairs

APR 17 1989

3. Reported favorably (~~as amended~~) and sent to Printer at 3:30 pm  
(~~as substituted~~) APR 24 1989

APR 24 1989

4. Printed and distributed at 10:33 pm

APR 25 1989

5. Sent to Committee on Calendars at 2:46 pm  
L4C

MAY 5 1989

6. Read second time (~~amended~~); passed to third reading (~~failed~~) by (Non-Record Vote)  
(Record Vote of as subs. years, as subs. days, as subs. present, not voting).

7. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ days, and \_\_\_\_\_ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ years, \_\_\_\_\_ days, and \_\_\_\_\_ present, not voting.

MAY 5 1989

9. Read third time (~~amended~~); finally passed (~~failed~~) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ days, \_\_\_\_\_ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. \_\_\_\_\_ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ years, \_\_\_\_\_ days, and \_\_\_\_\_ present, not voting).

MAY 5 1989

12. Ordered Engrossed at 11:49 am

MAY 5 1989

13. Engrossed.

MAY 5 1989

14. Returned to Chief Clerk at 6:22 pm

MAY 8 1989

15. Sent to Senate.

Betty Murray  
Chief Clerk of the House

MAY 8 1989

16. Received from the House

MAY 9 1989

17. Read, referred to Committee on HEALTH AND HUMAN SERVICES

18. Reported favorably

MAY 20 1989

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

MAY 24 1989

21. Regular order of business suspended by unanimous  
(a viva voce vote.) consent  
\_\_\_\_\_ years, \_\_\_\_\_ days.

89 MAY 24 PM 5:32

HOUSE OF REPRESENTATIVES

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

MAY 24 1989

23. Read second time Amended passed to third reading by:  
(a viva voce vote.)  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

MAY 24 1989

24. Caption ordered amended to conform to body of bill.

MAY 24 1989

25. Senate and Constitutional 3-Day Rules suspended by vote of 29 yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

MAY 24 1989

26. Read third time and passed by  
(a viva voce vote.)  
(30 yeas, 2 nays.)

OTHER ACTION:

OTHER ACTION:

Secretary of the Senate

May 24, 1989

27. Returned to the House.

MAY 24 1989

28. Received from the Senate (with amendments,  
(as substituted.)

MAY 26 1989

29. House (Concurred) (~~Refused to Concur~~) in Senate (Amendments)  
(Substitute) by a (Non-Record)  
Vote (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present,  
~~not voting~~).

30. Conference Committee Ordered.

MAY 26 1989

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record  
Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

32. Ordered Enrolled at 12:30 Am

89 MAY -5 PM 6:22

HOUSE OF REPRESENTATIVES

89 APR 24 PM 10:33

1963